

## **CONTROLLED SUBSTANCES CRIMES CHART**

Prepared by the JLCs/AAs of the Hartford Immigration Court

Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Other
<b>CONN. GEN. STAT. ANN. § 21a-266. Prohibited Acts.<sup>1</sup></b>			
	(a) No person shall obtain or attempt to obtain a controlled substance or procure or attempt to procure the administration of a controlled substance (1) by fraud, deceit, misrepresentation or subterfuge, or (2) by the forgery or alteration of a prescription or of any written order, or (3) by the concealment of a material fact, or (4) by the use of a false name or the giving of a false address;		
This statute is an unclassified felony	(b) (5)	(b) (5)	Controlled Substances Offense under INA §§ 212(a)(2)(A)(II) or 237(a)(2)(B)(i):
First offense: up to 2 years imprisonment and/or \$1,000 fine			(b) (5)
Subsequent offenses: 10 years imprisonment and/or \$10,000 fine			
CONN. GEN. STAT. ANN. § 53a-25			

1 (b) (5)

**Note:** This chart does not analyze what effect the petty offense exception may have on a conviction that is determined to be a CIMT nor whether the offense meets any minimum sentence requirement.

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(b) (5)	[REDACTED]	[REDACTED]	(b) (5)
	[REDACTED]	[REDACTED]	[REDACTED]

<sup>3</sup> “‘Controlled substance’ means a drug, substance, or immediate precursor in schedules I to V, inclusive, of the Connecticut controlled substance scheduling regulations adopted pursuant to section 21a-243” CONN. GEN. STAT. ANN. § 21a-240(9).

<sup>4</sup> The jury instructions state that CONN. GEN. STAT. ANN. 21a-266(a) contains two elements; (1) “obtain or procure controlled substance” and (2) “means” listing (a)(1), (a)(2), (a)(3), or (a)(4). The instructions go onto list under element 1 “the first element is that the defendant (obtained or attempted to obtain/ procured or attempted to procure the administration of) a controlled substance, specifically <insert type of substance>.” See Connecticut Jury Instructions, 8.1-11 Obtaining a Controlled Substance by Fraud-- § 21a-266(a).

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<b>CONN. GEN. STAT. ANN. § 21a-266. Prohibited Acts.<sup>5</sup></b>			
	(b) Information communicated to a practitioner in an effort unlawfully to procure a controlled substance, or unlawfully to procure the administration of any such substance, shall not be deemed a privileged communication.		
This statute is an unclassified felony	(b) (5)	(b) (5)	
First offense: up to 2 years imprisonment and/or \$1,000 fine			
Subsequent offenses: 10 years imprisonment and/or \$10,000 fine			
CONN. GEN. STAT. ANN. § 53a-25			
	<b>Offense relating to counterfeiting or forgery:</b> Several sections of 21(a)-266 do not involve forgery or alteration of a prescription. Specifically sections (a)(1), (a)(4), (c), (d), and (h) do not readily appear to contain such an element. <i>See also In re: Erika Edda Cacace Lebron</i> , 2007 WL 4699959 (BIA 2007) (finding that section (a)(1) is not an		

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<sup>5</sup>(b) (5)

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(b) (5)



<sup>7</sup> “Controlled substance” means a drug, substance, or immediate precursor in schedules I to V, inclusive, of the Connecticut controlled substance scheduling regulations adopted pursuant to section 21a-243” CONN. GEN. STAT. ANN. § 21a-240(9).

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Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Other
<b>CONN. GEN. STAT. ANN. § 21a-266. Prohibited Acts.<sup>8</sup></b>			
(c) No person shall wilfully make a false statement in any prescription, order, report or record required by this part.			
This statute is an unclassified felony	(b) (5)	(b) (5)	
First offense: up to 2 years imprisonment and/or \$1,000 fine			
Subsequent offenses: 10 years imprisonment and/or \$10,000 fine			
CONN. GEN. STAT. ANN. § 53a-25			
	<b>Offense relating to counterfeiting or forgery:</b> Several sections of 21(a)-266 do not involve forgery or alteration of a prescription. Specifically sections (a)(1), (a)(4), (c), (d), and (h) do not readily appear to contain such an element. <i>See also In re: Erika Edda Cacace Lebron</i> , 2007 WL 4699959 (BIA 2007) (finding that section (a)(1) is not an		

<sup>8</sup> The analysis of CONN. GEN. STAT. ANN. § 21a-266 presumes that the statute has separate and distinct crimes for sections (a), (b), (c), (d), (e), (f), (g), and (h). While the punishment remains the same for all sections, Connecticut case law supports that these sections represent separate crimes. *See Julian v. Dep't of Consumer Protection State Comm'n of Pharm.*, 1993 WL 498989 (Conn. Super. Ct. 1993) (citing violations of 21a-266(a), (c), and (e) may be charged as separate crimes out of the same series of events); *see also* Connecticut Jury Instructions, 8.1-11 Obtaining a Controlled Substance by Fraud-- § 21a-266(a) (specific jury instructions for subsection (a)).

<sup>9</sup> (b) (5)



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(b) (5)



<sup>10</sup> “Controlled substance” means a drug, substance, or immediate precursor in schedules I to V, inclusive, of the Connecticut controlled substance scheduling regulations adopted pursuant to section 21a-243” CONN. GEN. STAT. ANN. § 21a-240(9).

**Note:** This chart does not analyze what effect the petty offense exception may have on a conviction that is determined to be a CIMT nor whether the offense meets any minimum sentence requirement.

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Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Other
<b>CONN. GEN. STAT. ANN. § 21a-266. Prohibited Acts.<sup>12</sup></b>			
	(d) No person shall, for the purpose of obtaining a controlled substance, falsely assume the title of, or claim to be, a manufacturer, wholesaler, pharmacist, physician, dentist, veterinarian, podiatrist or other authorized person.		
This statute is an unclassified felony	(b) (5)	(b) (5)	(b) (5)
First offense: up to 2 years imprisonment and/or \$1,000 fine			
Subsequent offenses: 10 years imprisonment and/or \$10,000 fine			
CONN. GEN. STAT. ANN. § 53a-25			
	<b>Offense relating to counterfeiting or forgery:</b> Several sections of 21(a)-266 do not involve forgery or alteration of a prescription. Specifically sections (a)(1), (a)(4), (c), (d), and (h) do not readily appear to contain such an element. <i>See also In re: Erika Edda Cacace Lebron</i> , 2007 WL 4699959 (BIA 2007) (finding that section (a)(1) is not an		

<sup>12</sup> The analysis of C.G.S.A. § 21a-266 presumes that the statute has separate and distinct crimes for sections (a), (b), (c), (d), (e), (f), (g), and (h). While the punishment remains the same for all sections, Connecticut case law supports that these sections represent separate crimes. *See Julian v. Dep't of Consumer Protection State Comm'n of Pharm.*, 1993 WL 498989 (Conn. Super. Ct. 1993) (citing violations of 21a-266(a), (c), and (e) may be charged as separate crimes out of the same series of events); *see also* Connecticut Jury Instructions, 8.1-11 Obtaining a Controlled Substance by Fraud-- § 21a-266(a) (specific jury instructions for subsection (a)).

<sup>13</sup> (b) (5)

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(b) (5)	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]

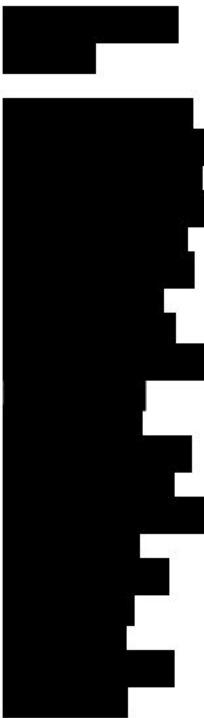
<sup>14</sup> “‘Controlled substance’ means a drug, substance, or immediate precursor in schedules I to V, inclusive, of the Connecticut controlled substance scheduling regulations adopted pursuant to section 21a-243” C.G.S.A. § 21a-240(9).

<sup>15</sup> This analysis accepts that §21a-279(a) and §21a-279(b) appear to be separate, distinct crimes as the text of the statute alone shows that they have different elements and different punishments. For §21a-279(a) the punishment is just a class A misdemeanor, for §21a-279(b) punishment is a class A misdemeanor, sentence of imprisonment, and a period of probation with community service.

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Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Other
<b>CONN. GEN. STAT. ANN. § 21a-266. Prohibited Acts.<sup>16</sup></b>			
(e) No person shall make or utter any false or forged prescription or false or forged written order.			
This statute is an unclassified felony  First offense: up to 2 years imprisonment and/or \$1,000 fine  Subsequent offenses: 10 years imprisonment and/or \$10,000 fine  CONN. GEN. STAT. ANN. § 53a-25	(b) (5)    <b>Offense relating to counterfeiting or forgery:</b> Several sections of 21(a)-266 do not involve forgery or alteration of a prescription. Specifically sections (a)(1), (a)(4), (c), (d), and (h) do not readily appear to contain such an element. See also <i>In re: Erika Edda Cacace Lebron</i> , 2007 WL 4699959 (BIA 2007) (finding that section (a)(1) is not an aggravated felony offense relating to counterfeiting or forgery).	(b) (5)  	(b) (5)  

<sup>16</sup> The analysis of C.G.S.A. § 21a-266 presumes that the statute has separate and distinct crimes for sections (a), (b), (c), (d), (e), (f), (g), and (h). While the punishment remains the same for all sections, Connecticut case law supports that these sections represent separate crimes. See *Julian v. Dep't of Consumer Protection State Comm'n of Pharm.*, 1993 WL 498989 (Conn. Super. Ct. 1993) (citing violations of 21a-266(a), (c), and (e) may be charged as separate crimes out of the same series of events); see also Connecticut Jury Instructions, 8.1-11 Obtaining a Controlled Substance by Fraud-- § 21a-266(a) (specific jury instructions for subsection (a)).

<sup>17</sup> (b) (5)  
  


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<sup>18</sup> “‘Controlled substance’ means a drug, substance, or immediate precursor in schedules I to V, inclusive, of the Connecticut controlled substance scheduling regulations adopted pursuant to section 21a-243” C.G.S.A. § 21a-240(9).

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<b>CONN. GEN. STAT. ANN. § 21a-266. Prohibited Acts.<sup>20</sup></b>			
	(f) No person shall affix any false or forged label to a package or receptacle containing controlled substances.		
This statute is an unclassified felony	(b) (5)	(b) (5)	
First offense: up to 2 years imprisonment and/or \$1,000 fine			
Subsequent offenses: 10 years imprisonment and/or \$10,000 fine			
CONN. GEN. STAT. ANN. § 53a-25			
	<b>Offense relating to counterfeiting or forgery:</b> Several sections of 21(a)-266 do not involve forgery or alteration of a prescription. Specifically sections (a)(1), (a)(4), (c), (d), and (h) do not readily appear to contain such an element. <i>See also In re: Erika Edda Cacace Lebron</i> , 2007 WL 4699959 (BIA 2007) (finding that section (a)(1) is not an		

<sup>20</sup> The analysis of C.G.S.A. § 21a-266 presumes that the statute has separate and distinct crimes for sections (a), (b), (c), (d), (e), (f), (g), and (h). While the punishment remains the same for all sections, Connecticut case law supports that these sections represent separate crimes. *See Julian v. Dep’t of Consumer Protection State Comm’n of Pharm.*, 1993 WL 498989 (Conn. Super. Ct. 1993) (citing violations of 21a-266(a), (c), and (e) may be charged as separate crimes out of the same series of events); *see also* Connecticut Jury Instructions, 8.1-11 Obtaining a Controlled Substance by Fraud-- § 21a-266(a) (specific jury instructions for subsection (a)).

21 (b) (5)

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<sup>22</sup> “Controlled substance” means a drug, substance, or immediate precursor in schedules I to V, inclusive, of the Connecticut controlled substance scheduling regulations adopted pursuant to section 21a-243” C.G.S.A. § 21a-240(9).

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<b>CONN. GEN. STAT. ANN. § 21a-266. Prohibited Acts.<sup>24</sup></b>			
	(g) No person shall alter an otherwise valid written order or prescription except upon express authorization of the issuing practitioner.		
This statute is an unclassified felony	(b) (5)	(b) (5)	
First offense: up to 2 years imprisonment and/or \$1,000 fine			
Subsequent offenses: 10 years imprisonment and/or \$10,000 fine			
CONN. GEN. STAT. ANN. § 53a-25			
	<b>Offense relating to counterfeiting or forgery:</b> Several sections of 21(a)-266 do not involve forgery or alteration of a prescription. Specifically sections (a)(1), (a)(4), (c), (d), and (h) do not readily appear to contain such an element. <i>See also In re: Erika Edda Cacace Lebron</i> , 2007 WL 4699959 (BIA 2007) (finding that section (a)(1) is not an		

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<sup>24</sup> The analysis of C.G.S.A. § 21a-266 presumes that the statute has separate and distinct crimes for sections (a), (b), (c), (d), (e), (f), (g), and (h). While the punishment remains the same for all sections, Connecticut case law supports that these sections represent separate crimes. *See Julian v. Dep't of Consumer Protection State Comm'n of Pharm.*, 1993 WL 498989 (Conn. Super. Ct. 1993) (citing violations of 21a-266(a), (c), and (e) may be charged as separate crimes out of the same series of events); *see also* Connecticut Jury Instructions, 8.1-11 Obtaining a Controlled Substance by Fraud-- § 21a-266(a) (specific jury instructions for subsection (a)).

<sup>25</sup> (b) (5)



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(b) (5)



<sup>26</sup> “Controlled substance” means a drug, substance, or immediate precursor in schedules I to V, inclusive, of the Connecticut controlled substance scheduling regulations adopted pursuant to section 21a-243” C.G.S.A. § 21a-240(9).

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<b>CONN. GEN. STAT. ANN. § 21a-266. Prohibited Acts.<sup>28</sup></b>			
	(h) No person who, in the course of treatment, is supplied with controlled substances or a prescription therefor by one practitioner shall, knowingly, without disclosing such fact, accept during such treatment controlled substances or a prescription therefor from another practitioner with intent to obtain a quantity of controlled substances for abuse of such substances.		
This statute is an unclassified felony	(b) (5)	(b) (5)	
First offense: up to 2 years imprisonment and/or \$1,000 fine			
Subsequent offenses: 10 years imprisonment and/or \$10,000 fine			
CONN. GEN. STAT. ANN. § 53a-25			
	<b>Offense relating to counterfeiting or forgery:</b> Several sections of 21(a)-266 do not involve forgery or alteration of a prescription. Specifically sections (a)(1), (a)(4), (c), (d), and (h) do not readily appear to contain such an element. <i>See also In re: Erika Edda</i>		

<sup>28</sup> The analysis of C.G.S.A. § 21a-266 presumes that the statute has separate and distinct crimes for sections (a), (b), (c), (d), (e), (f), (g), and (h). While the punishment remains the same for all sections, Connecticut case law supports that these sections represent separate crimes. *See Julian v. Dep't of Consumer Protection State Comm'n of Pharm.*, 1993 WL 498989 (Conn. Super. Ct. 1993) (citing violations of 21a-266(a), (c), and (e) may be charged as separate crimes out of the same series of events); *see also* Connecticut Jury Instructions, 8.1-11 Obtaining a Controlled Substance by Fraud-- § 21a-266(a) (specific jury instructions for subsection (a)).

<sup>29</sup> (b) (5)



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(b) (5)	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]

<sup>30</sup> “‘Controlled substance’ means a drug, substance, or immediate precursor in schedules I to V, inclusive, of the Connecticut controlled substance scheduling regulations adopted pursuant to section 21a-243” C.G.S.A. § 21a-240(9).

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Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Other
<b>CONN. GEN. STAT. ANN. 21a-267(a) Use of or Possession with Intent to Use Drug Paraphernalia<sup>32</sup></b>			
(a) No person shall use or possess with intent to use drug paraphernalia, as defined in subdivision (20) of section 21a-240 <sup>33</sup> , to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain or conceal, or to ingest, inhale or otherwise introduce into the human body, any controlled substance, as defined in subdivision (9) of section 21a-240 <sup>34</sup> , other than a cannabis-type substance in a quantity of less than one-half ounce. Any person who violates any provision of this subsection shall be guilty of a class C misdemeanor.			
Class C Misdemeanor —fine not to exceed \$500 or imprisonment not to exceed three months	(b) (5)		
CONN. GEN. STAT. ANN. §§ 53a-36; 53a-42			

■ [REDACTED] this analysis assumes divisibility of 21a-267 into sections (a), (b), and (c) because different punishments are prescribed to each subsection. *See Mathis v. United States*, 136 S. Ct. 2243 (2016); *Apprendi v. New Jersey*, 530 U.S. 466 (2000).

<sup>32</sup> §21a-240(20)(A) “Drug paraphernalia” refers to equipment, products and materials of any kind which are used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing or concealing, or ingesting, inhaling or otherwise introducing into the human body, any controlled substance contrary to the provisions of this chapter including, but not limited to: (i) Kits intended for use or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived; (ii) kits used, intended for use or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances; (iii) isomerization devices used, intended for use in increasing the potency of any species of plant which is a controlled substance; (iv) testing equipment used, intended for use or designed for use in identifying or analyzing the strength, effectiveness or purity of controlled substances; (v) dilutents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose used, intended for use or designed for use in cutting controlled substances; (vi) separation gins and sifters used, intended for use or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana; (vii) capsules and other containers used, intended for use or designed for use in packaging small quantities of controlled substances; (viii) containers and other objects used, intended for use or designed for use in storing or concealing controlled substances; (ix) objects used, intended for use or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as: Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with screens, permanent screens, hashish heads or punctured metal bowls; water pipes; carburetion tubes and devices; smoking and carburetion masks; roach clips: Meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand; miniature cocaine spoons, and cocaine vials; chamber pipes; carburetor pipes; electric pipes; air-driven pipes; chillums; bongs or ice pipes or chillers;

<sup>33</sup> §21a-240(9) “Controlled substance” means a drug, substance, or immediate precursor in schedules I to V, inclusive, of the Connecticut controlled substance scheduling regulations adopted pursuant to section 21a-243;

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(b) (5)

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Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Other
<b>CONN. GEN. STAT. ANN. 21a-267(b) Drug Paraphernalia: Delivering<sup>35</sup></b>			
(b) No person shall deliver, possess with intent to deliver or manufacture with intent to deliver drug paraphernalia <sup>36</sup> knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain or conceal, or to ingest, inhale or otherwise introduce into the human body, any controlled substance <sup>37</sup> , other than a cannabis-type substance in a quantity of less than one-half ounce. Any person who violates any provision of this subsection shall be guilty of a class A misdemeanor.			
Class A—fine not to exceed \$2,000 or imprisonment not to exceed one year	(b) (5)		
CONN. GEN. STAT. ANN. §§ 53a-36; 53a-42			

<sup>35</sup> Note this analysis assumes divisibility of 21a-267 into sections (a), (b), and (c) because different punishments are prescribed to each subsection. *See Mathis v. United States*, 136 S. Ct. 2243 (2016); *Apprendi v. New Jersey*, 530 U.S. 466 (2000).

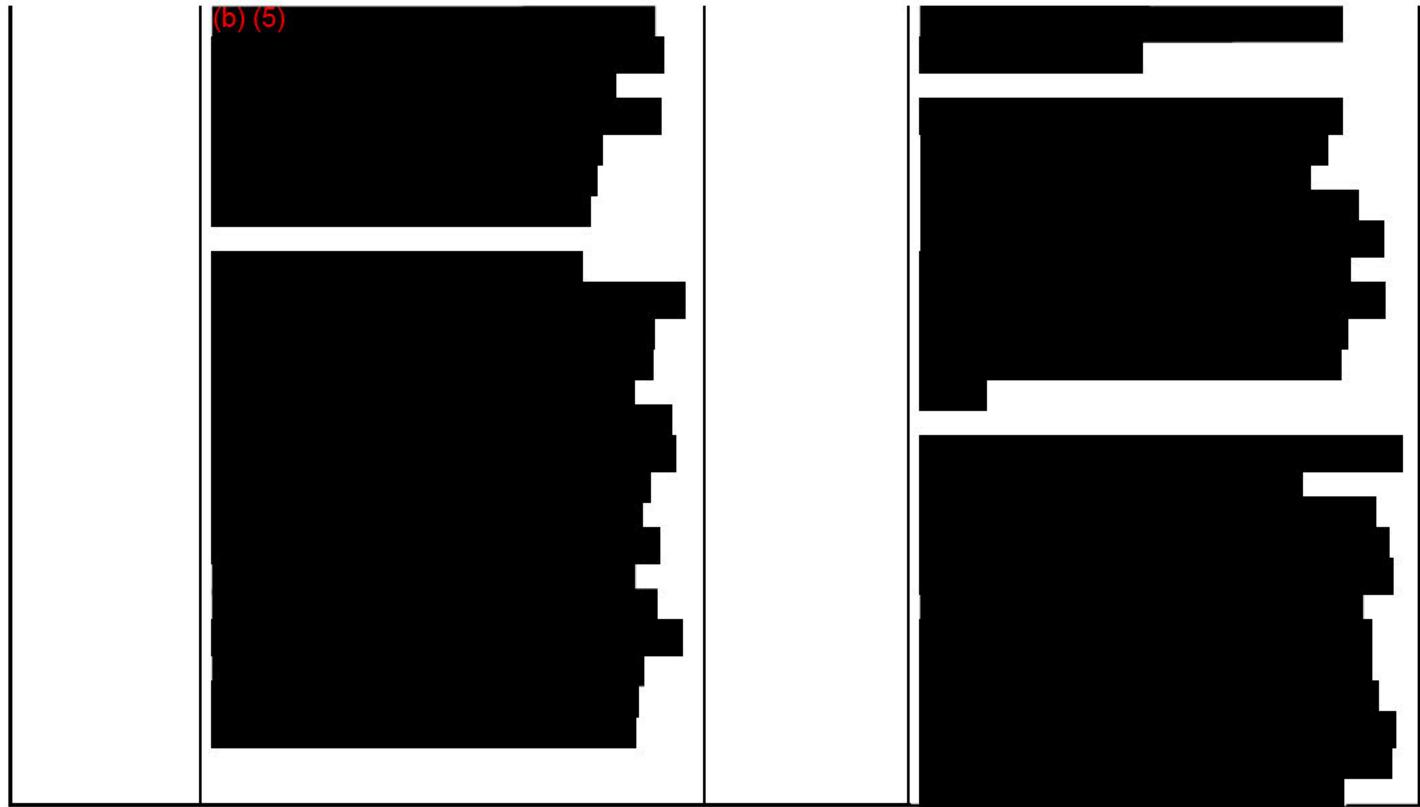
<sup>36</sup> §21a-240(20)(A) “Drug paraphernalia” refers to equipment, products and materials of any kind which are used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing or concealing, or ingesting, inhaling or otherwise introducing into the human body, any controlled substance contrary to the provisions of this chapter including, but not limited to: (i) Kits intended for use or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived; (ii) kits used, intended for use or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances; (iii) isomerization devices used, intended for use in increasing the potency of any species of plant which is a controlled substance; (iv) testing equipment used, intended for use or designed for use in identifying or analyzing the strength, effectiveness or purity of controlled substances; (v) dilutents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose used, intended for use or designed for use in cutting controlled substances; (vi) separation gins and sifters used, intended for use or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana; (vii) capsules and other containers used, intended for use or designed for use in packaging small quantities of controlled substances; (viii) containers and other objects used, intended for use or designed for use in storing or concealing controlled substances; (ix) objects used, intended for use or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as: Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with screens, permanent screens, hashish heads or punctured metal bowls; water pipes; carburetion tubes and devices; smoking and carburetion masks; roach clips: Meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand; miniature cocaine spoons, and cocaine vials; chamber pipes; carburetor pipes; electric pipes; air-driven pipes; chillums; bongs or ice pipes or chillers;

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Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Other
<b>CONN. GEN. STAT. ANN. 21a-267(c) violation of subsection (a) or (b) within 1500 feet of a school<sup>38</sup></b>			
(c) Any person who violates subsection (a) or (b) of this section in or on, or within one thousand five hundred feet of, the real property comprising a public or private elementary or secondary school and who is not enrolled as a student in such school shall be imprisoned for a term of one year which shall not be suspended and shall be in addition and consecutive to any term of imprisonment imposed for violation of subsection (a) or (b) of this section.			
Term of imprisonment for one year along with term imposed by subsections (a) or (b) of the statute	(b) (5)		

<sup>38</sup> Note this analysis assumes divisibility of 21a-267 into sections (a), (b), and (c) because different punishments are prescribed to each subsection. See *Mathis v. United States*, 136 S. Ct. 2243 (2016); *Apprendi v. New Jersey*, 530 U.S. 466 (2000).

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Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Other
<b>CONN. GEN. STAT. ANN. 21a-267(d) use, possession, or delivery of drug paraphernalia for less than one half ounce of cannabis-type substance</b>			
(d) No person shall (1) use or possess with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain or conceal, or to ingest, inhale or otherwise introduce into the human body, less than one-half ounce of a cannabis-type substance, or (2) deliver, possess with intent to deliver or manufacture with intent to deliver drug paraphernalia knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain or conceal, or to ingest, inhale or otherwise introduce into the human body, less than one-half ounce of a cannabis-type substance. Any person who violates any provision of this subsection shall have committed an infraction.	(b) (5)		
Infractions carry no term of imprisonment for this offense—a fine of \$90 may be imposed <sup>39</sup>			

<sup>39</sup> <https://www.jud.ct.gov/webforms/forms/INFRACTIONS.pdf>

**Note:** This chart does not analyze what effect the petty offense exception may have on a conviction that is determined to be a CIMT nor whether the offense meets any minimum sentence requirement.

## CONTROLLED SUBSTANCES CRIMES CHART

Prepared by the JLCs/AAs of the Hartford Immigration Court

Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Other
<b>CONN. GEN. STAT. ANN. 21a-268 Misrepresenting Substance as Controlled</b>			
(a) Any person who knowingly delivers or attempts to deliver a noncontrolled substance (1) upon the express representation that such substance is a controlled substance or (2) under circumstances which would lead a reasonable person to believe that such substance is a controlled substance, shall be guilty of a class D felony.			
(b) The provisions of subsection (a) of this section shall not apply to any transaction in the ordinary course of business by any licensed practitioner or licensed pharmacist.			
Class D felony—fine or not more than \$5,000 or imprisonment not to exceed 5 years  CONN. GEN. STAT. ANN. §§ 53a-35; 53a-35a; 53a-41	(b) (5)		

**Note:** This chart does not analyze what effect the petty offense exception may have on a conviction that is determined to be a CIMT nor whether the offense meets any minimum sentence requirement.

# CONTROLLED SUBSTANCES CRIMES CHART

Prepared by the JLCs/AAs of the Hartford Immigration Court

Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Other
<b>CONN. GEN. STAT. ANN. §21a-277(a). Penalty for Illegal manufacture, distribution, sale, prescription, dispensing<sup>40</sup></b>			
	(1) No person may manufacture, distribute, sell <sup>41</sup> , prescribe, dispense, compound, transport with the intent to sell or dispense, possess with the intent to sell or dispense, offer, give or administer to another person, except as authorized in this chapter, any controlled substance that is a (A) narcotic substance <sup>42</sup> , or (B) hallucinogenic substance <sup>43,44</sup>		
First offense: imprisoned not more than 15 years and may be fined not more than \$50,000 or both	(b) (5)		
Second offense: imprisoned not more than 30 years and may be fined not more than \$100,000 or both			
Subsequent offenses: imprisoned not more than 30			

<sup>40</sup> Note this is the current version of the statute, effective as of October 1, 2017. There are no substantive differences between the two versions. The current version lists the offense in subsection (a)(1) and the penalty in subsection (a)(2) while the prior version includes both the offense and penalty in subsection (a).

<sup>41</sup> The term “sale” means “any form of delivery which includes barter, exchange or gift, offer therefor, and each such transaction made by any person whether as a principal, proprietor, agent, servant or employee.” CONN. GEN. STAT. ANN. § 21a-240 (50). This broad definition means that “there is no requirement that the delivery of the controlled substance be for consideration, or that it be part of a transaction of barter, exchange, gift, or offer.” *See State v. Wassil*, 233 Conn. 174 (1995) (holding “sale” occurred when defendant merely handed a bag to another person who then injected heroin into his own arm).

<sup>42</sup> “Narcotic substance” means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis: (A) Morphine-type: (i) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate which are similar thereto in chemical structure or which are similar thereto in physiological effect and which show a like potential for abuse, which are controlled substances under this chapter unless modified; (ii) any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause (i), but not including the isoquinoline alkaloids of opium; (iii) opium poppy and poppy straw; (B) cocaine-type, coca leaves and any salt, compound, derivative or preparation of coca leaves, and any salt, compound, isomer, derivatives or preparation thereof which is chemically equivalent or identical with any of these substances or which are similar thereto in physiological effect and which show a like potential for abuse, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine. Conn. Gen. Stat. Ann. § 21a-240(30).

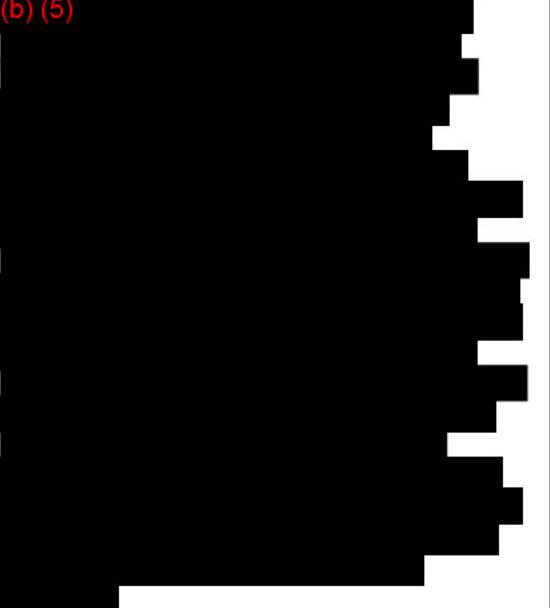
<sup>43</sup> “Hallucinogenic substances” are psychodysleptic substances, other than cannabis-type substances, which assert a confusional or disorganizing effect upon mental processes or behavior and mimic acute psychotic disturbances. Exemplary of such drugs are mescaline, peyote, psilocyn and d-lysergic acid diethylamide, which are controlled substances under this chapter unless modified. Conn. Gen. Stat. Ann. § 21a-240(23).

<sup>44</sup> Note this analysis assumes divisibility of 21a-277 into sections (a), (b), and (c) because different punishments are prescribed to each subsection. *See Mathis v. United States*, 136 S. Ct. 2243 (2016); *Apprendi v. New Jersey*, 530 U.S. 466 (2000).

**Note:** This chart does not analyze what effect the petty offense exception may have on a conviction that is determined to be a CIMT nor whether the offense meets any minimum sentence requirement.

## CONTROLLED SUBSTANCES CRIMES CHART

Prepared by the JLCs/AAs of the Hartford Immigration Court

years and may be fined not more than \$250,000, or both  Alternative sentence: up to a 3 year indeterminate sentence with conditional release  §21a-277(d); §21a-277(a)(2)	(b) (5) 	
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<sup>45</sup> In an unpublished decision, the BIA found that the 2006 version of Conn. Gen. Stat. § 21a-277(a) was overbroad and indivisible based on the Second Circuit's reasoning in *Harbin v. Sessions*, 860 F.3d 58 (2d Cir. 2017). See Cesar Augusto Chavarria Restrepo, 046-570-410, (BIA April 26, 2018).

**Note:** This chart does not analyze what effect the petty offense exception may have on a conviction that is determined to be a CIMT nor whether the offense meets any minimum sentence requirement.

## CONTROLLED SUBSTANCES CRIMES CHART

Prepared by the JLCs/AAs of the Hartford Immigration Court

Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Other
<b>CONN. GEN. STAT. ANN. §21a-277(b) Penalty for Illegal Manufacture, distribution, sale, prescription, dispensing<sup>46</sup></b>			
	(1) No person may manufacture, distribute, sell, prescribe, dispense, compound, transport with the intent to sell or dispense, possess with the intent to sell or dispense, offer, give or administer to another person, except as authorized in this chapter or chapter 420f, any controlled substance other than a (A) narcotic substance <sup>47</sup> , or (B) hallucinogenic substance <sup>48 49</sup>		
First offense: imprisoned not more than 7 years and may be fined not more than \$25,000 or both	(b) (5)		
Subsequent offenses: imprisoned not more than 15 years and may be fined not more than \$100,000, or both			
Alternative sentence: up to a 3 year indeterminate sentence with conditional release			

<sup>46</sup> Note this is the current version of the statute, effective as of October 1, 2017. There are no substantive differences between the two versions. The current version lists the offense in subsection (b)(1) and the penalty in subsection (b)(2) while the prior version includes both the offense and penalty in subsection (b).

<sup>47</sup> “Narcotic substance” means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis: (A) Morphine-type: (i) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate which are similar thereto in chemical structure or which are similar thereto in physiological effect and which show a like potential for abuse, which are controlled substances under this chapter unless modified; (ii) any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause (i), but not including the isoquinoline alkaloids of opium; (iii) opium poppy and poppy straw; (B) cocaine-type, coca leaves and any salt, compound, derivative or preparation of coca leaves, and any salt, compound, isomer, derivatives or preparation thereof which is chemically equivalent or identical with any of these substances or which are similar thereto in physiological effect and which show a like potential for abuse, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine. Conn. Gen. Stat. Ann. § 21a-240(30).

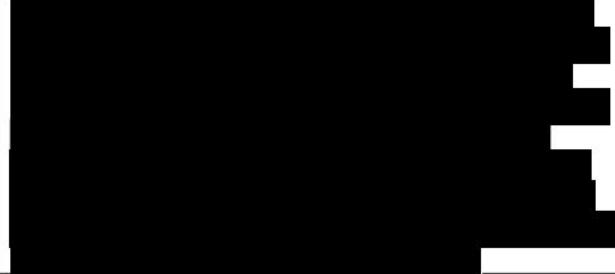
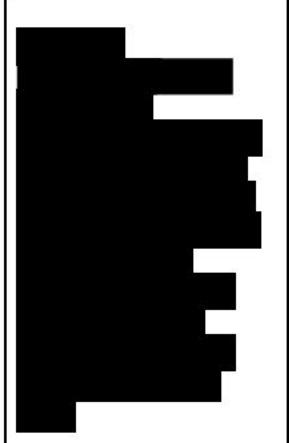
<sup>48</sup> “Hallucinogenic substances” are psychodysleptic substances, other than cannabis-type substances, which assert a confusional or disorganizing effect upon mental processes or behavior and mimic acute psychotic disturbances. Exemplary of such drugs are mescaline, peyote, psilocyn and d-lysergic acid diethylamide, which are controlled substances under this chapter unless modified. Conn. Gen. Stat. Ann. § 21a-240(23).

<sup>49</sup> Note this analysis assumes divisibility of 21a-277 into sections (a), (b), and (c) because different punishments are prescribed to each subsection. See *Mathis v. United States*, 136 S. Ct. 2243 (2016); *Apprendi v. New Jersey*, 530 U.S. 466 (2000).

**Note:** This chart does not analyze what effect the petty offense exception may have on a conviction that is determined to be a CIMT nor whether the offense meets any minimum sentence requirement.

## CONTROLLED SUBSTANCES CRIMES CHART

Prepared by the JLCs/AAs of the Hartford Immigration Court

§21a-277(d); §21a-277(b)(2)	(b) (5)  	
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**Note:** This chart does not analyze what effect the petty offense exception may have on a conviction that is determined to be a CIMT nor whether the offense meets any minimum sentence requirement.

## CONTROLLED SUBSTANCES CRIMES CHART

Prepared by the JLCs/AAs of the Hartford Immigration Court

Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Other
<b>CONN. GEN. STAT. ANN. §21a-277(c) Penalty for Illegal Manufacture, distribution, sale, prescription, dispensing<sup>50</sup></b> No person may knowingly possess drug paraphernalia in a drug factory situation as defined by subdivision (20) of section 21a-240 for the unlawful mixing, compounding or otherwise preparing any controlled substance for purposes of violation of this chapter. <sup>51</sup>			
Not more than \$500	(b) (5)		

<sup>50</sup> Note this is the current version of the statute, effective as of October 1, 2017. Subsection (c) appears the same in both the current and prior version of the statute.

<sup>51</sup> Note this analysis assumes divisibility of 21a-277 into sections (a), (b), and (c) because different punishments are prescribed to each subsection. See *Mathis v. United States*, 136 S. Ct. 2243 (2016); *Apprendi v. New Jersey*, 530 U.S. 466 (2000).

**Note:** This chart does not analyze what effect the petty offense exception may have on a conviction that is determined to be a CIMT nor whether the offense meets any minimum sentence requirement.

# CONTROLLED SUBSTANCES CRIMES CHART

Prepared by the JLCs/AAs of the Hartford Immigration Court

Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Other
<b>CONN. GEN. STAT. ANN. 21a-278(a) Penalty for illegal manufacture, distribution, sale, prescription or administration by non-drug-dependent person<sup>52</sup></b>			
	(1) No person may manufacture, distribute, sell, prescribe, dispense, compound, transport with the intent to sell or dispense, possess with the intent to sell or dispense, offer, give or administer to another person, except as authorized in this chapter, (A) one or more preparations, compounds, mixtures or substances containing an aggregate weight of (i) one ounce or more of heroin or methadone, or (ii) one-half ounce or more of cocaine or cocaine in a free-base form, or (B) a substance containing five milligrams or more of lysergic acid diethylamide. The provisions of this subdivision shall not apply to a person who is, at the time of the commission of the offense, a drug-dependent person.		
Life imprisonment			(b) (5)
CONN. GEN. STAT. ANN. § 21a-278(a)(2)			

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<sup>52</sup> This analysis presumes that Conn. Gen. Stat. Ann. § 21a-278(a) and (b) is divisible into subsections (a) and (b) because different penalties are prescribed to each subsection. *See Mathis v. United States*, 136 S. Ct. 2243 (2016); *Apprendi v. New Jersey*, 530 U.S. 466 (2000).

**Note:** This chart does not analyze what effect the petty offense exception may have on a conviction that is determined to be a CIMT nor whether the offense meets any minimum sentence requirement.

## **CONTROLLED SUBSTANCES CRIMES CHART**

Prepared by the JLCs/AAs of the Hartford Immigration Court

Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Other
<b>CONN. GEN. STAT. ANN. 21a-278(b) Penalty for illegal manufacture, distribution, sale, prescription or administration by non-drug-dependent person<sup>53</sup></b>			
	(1) No person may manufacture, distribute, sell, prescribe, dispense, compound, transport with the intent to sell or dispense, possess with the intent to sell or dispense, offer, give or administer to another person, except as authorized in this chapter or chapter 420f,1 (A) a narcotic substance, (B) a hallucinogenic substance, (C) an amphetamine-type substance, or (D) one kilogram or more of a cannabis-type substance. The provisions of this subdivision shall not apply to a person who is, at the time of the commission of the offense, a drug-dependent person.		
Imprisonment not more than 20 years			(b) (5)
CONN. GEN. STAT. ANN. § 21a-278(b)			

<sup>53</sup> This analysis presumes that Conn. Gen. Stat. Ann. § 21a-278 is divisible into subsections (a) and (b) because different penalties are prescribed to each subsection. See *Mathis v. United States*, 136 S. Ct. 2243 (2016); *Apprendi v. New Jersey*, 530 U.S. 466 (2000).

**Note:** This chart does not analyze what effect the petty offense exception may have on a conviction that is determined to be a CIMT nor whether the offense meets any minimum sentence requirement.

## CONTROLLED SUBSTANCES CRIMES CHART

Prepared by the JLCs/AAs of the Hartford Immigration Court

(b) (5)



**Note:** This chart does not analyze what effect the petty offense exception may have on a conviction that is determined to be a CIMT nor whether the offense meets any minimum sentence requirement.

## CONTROLLED SUBSTANCES CRIMES CHART

Prepared by the JLCs/AAs of the Hartford Immigration Court

Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Other
<b>CONN. GEN. STAT. ANN. 21a-278a(a) [Illegal Distribution of a Controlled Substance to a Minor]<sup>54</sup></b>			
<p>(a) Any person eighteen years of age or older who violates section 21a-277 or 21a-278, and who is not, at the time of such action, a drug-dependent person, by distributing, selling, prescribing, dispensing, offering, giving or administering any controlled substance to another person who is under eighteen years of age and is at least two years younger than such person who is in violation of section 21a-277 or 21a-278, shall be imprisoned for a term of two years, which shall not be suspended and shall be in addition and consecutive to any term of imprisonment imposed for violation of section 21a-277 or 21a-278.</p> <p>Imprisonment mandatory 2 years + jail term imposed by underlying crime</p> <p>CONN. GEN. STAT. ANN. § 21a-278(a)</p>	<p>Requires further analysis.</p> <p>See above analysis for Conn. Gen. Stat. Ann. § 21-277 and 21a-278.</p>		<p>(b) (5)</p>     

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<sup>54</sup> This analysis presumes that Conn. Gen. Stat. Ann. § 21a-278a is divisible into subsections (a), (b), and (c) because different penalties are prescribed to each subsection. *See Mathis v. United States*, 136 S. Ct. 2243 (2016); *Apprendi v. New Jersey*, 530 U.S. 466 (2000).

**Note:** This chart does not analyze what effect the petty offense exception may have on a conviction that is determined to be a CIMT nor whether the offense meets any minimum sentence requirement.

## CONTROLLED SUBSTANCES CRIMES CHART

Prepared by the JLCs/AAs of the Hartford Immigration Court

Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Other
<b>CONN. GEN. STAT. ANN. 21a-278a(b) [Illegal Distribution of a Controlled Substance near School, Public Housing, or Day Care Center]<sup>55</sup></b> <b>(b)</b> Any person who violates section 21a-277 or 21a-278 by manufacturing, distributing, selling, prescribing, dispensing, compounding, transporting with the intent to sell or dispense, possessing with the intent to sell or dispense, offering, giving or administering to another person any controlled substance in or on, or within one thousand five hundred feet of, the real property comprising a public or private elementary or secondary school, a public housing project or a licensed child care center, as defined in section 19a-77, that is identified as a child care center by a sign posted in a conspicuous place shall be imprisoned for a term of three years, which shall not be suspended and shall be in addition and consecutive to any term of imprisonment imposed for violation of section 21a-277 or 21a-278. To constitute a violation of this subsection, an act of transporting or possessing a controlled substance shall be with intent to sell or dispense in or on, or within one thousand five hundred feet of, the real property comprising a public or private elementary or secondary school, a public housing project or a licensed child care center, as defined in section 19a-77, that is identified as a child care center by a sign posted in a conspicuous place. For the purposes of this subsection, “public housing project” means dwelling accommodations operated as a state or federally subsidized multifamily housing project by a housing authority, nonprofit corporation or municipal developer, as defined in section 8-39, pursuant to chapter 1281 or by the Connecticut Housing Authority pursuant to chapter 129.			
Mandatory 3-year jail term running consecutively to any jail term imposed for violating the underlying drug sale crime	(b) (5)		

<sup>55</sup> This analysis presumes that Conn. Gen. Stat. Ann. § 21a-278a is divisible into subsections (a), (b), and (c) because different penalties are prescribed to each subsection. *See Mathis v. United States*, 136 S. Ct. 2243 (2016); *Apprendi v. New Jersey*, 530 U.S. 466 (2000).

**Note:** This chart does not analyze what effect the petty offense exception may have on a conviction that is determined to be a CIMT nor whether the offense meets any minimum sentence requirement.

## CONTROLLED SUBSTANCES CRIMES CHART

Prepared by the JLCs/AAs of the Hartford Immigration Court

Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Other
<b>CONN. GEN. STAT. ANN. 21a-278a(c) Employment of Minors in the Illegal Distribution of a Controlled Substance<sup>56</sup></b>			
Mandatory 3-year jail term running consecutively to the underlying drug sale crime	Requires further analysis.	(b) (5)	[REDACTED]

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<sup>56</sup> This analysis presumes that Conn. Gen. Stat. Ann. § 21a-278a is divisible into subsections (a), (b), and (c) because different penalties are prescribed to each subsection. *See Mathis v. United States*, 136 S. Ct. 2243 (2016); *Apprendi v. New Jersey*, 530 U.S. 466 (2000).

**Note:** This chart does not analyze what effect the petty offense exception may have on a conviction that is determined to be a CIMT nor whether the offense meets any minimum sentence requirement.

## CONTROLLED SUBSTANCES CRIMES CHART

Prepared by the JLCs/AAs of the Hartford Immigration Court

Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Other
<b>CONN. GEN. STAT. ANN. § 21a-279(a) [simple possession of a controlled substance]</b> (1) Any person who possesses or has under such person's control any quantity of any controlled substance, except less than one-half ounce of a cannabis-type substance and except as authorized in this chapter, shall be guilty of a class A misdemeanor.			
First offense: fine not more than \$2,000 or imprisonment not to exceed one year	(b) (5)		
Second offense: determined by the court			
Persistent Offenders: the Court may impose imprisonment for a class E felony— imprisonment not more than three years			
§21a-279(1), (2) and (3); §53a- 40(n); §53a-35a			

<sup>57</sup> Compare *State v. Vessichio*, 197 Conn. 644, 648-50 (1985) (indicating that there was only one narcotic substance involved in the case, cocaine, and the jury needed to find that in order to find defendant guilty); *State v. Johnson*, 26 Conn. App. 553 (1992) (indicating that the jury needed to find that the defendant possessed heroin, not a different type of “narcotic substance”); with *State v. Rawls*, 198 Conn. 111, 120-22 (1985) (holding that defendant’s separate convictions and sentences for possession of heroin and possession of cocaine, where both substances were discovered in pouch in defendant’s possession, was barred by double jeopardy clause, absent clearly discernible legislative intent for multiple punishment for simultaneous possession of more than one narcotic under [C.G.S.A. § 21a-279]); *State v. Green*, 81 Conn. App. 152, 162 (2004) (denying defendant’s challenge that jury had not been properly instructed of all elements of the offense where the jury was not instructed about the specific “narcotic” involved); *State v. Williams*, 12 Conn. App. 225 (1987) (holding that “a prosecutor may not create one offense of each from a single transaction by particularizing various narcotic substances in separate counts.”).

**Note:** This chart does not analyze what effect the petty offense exception may have on a conviction that is determined to be a CIMT nor whether the offense meets any minimum sentence requirement.

## CONTROLLED SUBSTANCES CRIMES CHART

Prepared by the JLCs/AAs of the Hartford Immigration Court

Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Other
<b>CONN. GEN. STAT. ANN. § 21a-279(b) [Illegal possession near a school]</b>			
(b) Any person who violates subsection (a) of this section in or on, or within one thousand five hundred feet of, the real property comprising a public or private elementary or secondary school and who is not enrolled as a student in such school or a licensed child care center, as defined in section 19a-77, that is identified as a child care center by a sign posted in a conspicuous place shall be guilty of a class A misdemeanor and shall be sentenced to a term of imprisonment and a period of probation during which such person shall perform community service as a condition of such probation, in a manner ordered by the court.			
Class A Misdemeanor: fine not more than \$2,000 or imprisonment not to exceed one year		(b) (5)	
CONN. GEN. STAT. ANN. §§ 53a-36; 53a-42			

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<sup>38</sup> Compare *State v. Vessichio*, 197 Conn. 644, 648-50 (1985) (indicating that there was only one narcotic substance involved in the case, cocaine, and the jury needed to find that in order to find defendant guilty); *State v. Johnson*, 26 Conn. App. 553 (1992) (indicating that the jury needed to find that the defendant possessed heroin, not a different type of “narcotic substance”); with *State v. Rawls*, 198 Conn. 111, 120-22 (1985) (holding that defendant’s separate convictions and sentences for possession of heroin and possession of cocaine, where both substances were discovered in pouch in defendant’s possession, was barred by double jeopardy clause, absent clearly discernible legislative intent for multiple punishment for simultaneous possession of more than one narcotic under [C.G.S.A. § 21a-279]); *State v. Green*, 81 Conn. App. 152, 162 (2004) (denying defendant’s challenge that jury had not been properly instructed of all elements of the offense where the jury was not instructed about the specific “narcotic” involved); *State v. Williams*, 12 Conn. App. 225 (1987) (holding that “a prosecutor may not create one offense of each from a single transaction by particularizing various narcotic substances in separate counts.”).

**Note:** This chart does not analyze what effect the petty offense exception may have on a conviction that is determined to be a CIMT nor whether the offense meets any minimum sentence requirement.

## CONTROLLED SUBSTANCES CRIMES CHART

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(b) (5)		

**Note:** This chart does not analyze what effect the petty offense exception may have on a conviction that is determined to be a CIMT nor whether the offense meets any minimum sentence requirement.

## **CONTROLLED SUBSTANCES CRIMES CHART**

Prepared by the JLCs/AAs of the Hartford Immigration Court

Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Other
<b>CONN. GEN. STAT. ANN. § 21a-279a. Penalty for illegal possession of small amount of cannabis-type substance</b>			
	(a) Any person who possesses or has under his control less than one-half ounce of a cannabis-type substance, as defined in section 21a-240, except as authorized in this chapter, shall (1) for a first offense, be fined one hundred fifty dollars, and (2) for a subsequent offense, be fined not less than two hundred dollars or more than five hundred dollars.		
First offense: fine not more than \$150	(b) (5)		
Subsequent offenses: not more than \$500			
§21a-279a(1)			

<sup>59</sup> The BIA has concluded that *Moncrieffe* does not cast doubt on the validity of *Davey*. *Dominguez-Rodriguez*, 26 I&N Dec. at 410. However, if the record of conviction conclusively establishes that the “possession for personal use exception” applies, “the removal charge must be dismissed without resort to a circumstance-specific inquiry.” *Id.* at 413.

**Note:** This chart does not analyze what effect the petty offense exception may have on a conviction that is determined to be a CIMT nor whether the offense meets any minimum sentence requirement.

# **CONTROLLED SUBSTANCES CRIMES CHART**

Prepared by the JLCs/AAs of the Hartford Immigration Court

## **SPECIFIC CONTROLLED SUBSTANCE SCHEDULE MISMATCHES**

Currently, Connecticut drug schedules regulate **Salvia Divinorum**, **Salvinorin A**, **trifloromethylphenypiperazine (“TFMPP”)**, and **Chronic Gonadotropin** which are not included on the CSA. Previously, **Benzylfentanyl** and **Thenylfentanyl** were included on Connecticut drug schedules but not the CSA. Because of this, the Connecticut drug schedules have been overbroad to the CSA from November 29, 1986 to present.

- **Salvia Divinorum**
  - Connecticut added Salvia Divinorum to its drug schedules on June 10, 2011 as a Schedule I controlled substance. *See Controlled substances in schedule I, Regs. Conn. State Agencies § 21a-243-7 (noting in “credits” effective amendment June 10, 2011); Notices of Intent to Amend Regulations, 2011 CT REG TEXT 272794 (NS); Connecticut Regulation Text, 2011 CT REG TEXT 272794 (NS).*
- **Salvinorin A**
  - Connecticut added Salvinorin A to its drug schedules on June 10, 2011 as a Schedule I controlled substance. *See Controlled substances in schedule I, Regs. Conn. State Agencies § 21a-243-7 (noting in “credits” effective amendment June 10, 2011); Notices of Intent to Amend Regulations, 2011 CT REG TEXT 272794 (NS); Connecticut Regulation Text, 2011 CT REG TEXT 272794 (NS).*
- **Chorionic Gonadotropin (“HCG”)**
  - HCG was added to Connecticut drug schedules on October 10, 1989. *See 51 Conn. L.J. 5B (Oct. 10, 1989) (anabolic steroids scheduling in Connecticut complete Sept. 22, 1989). Connecticut has listed Chorionic Gonadotropin as a schedule III controlled substance. See Controlled Substances in Schedule III, Regs. Conn. State Agencies, § 21a-243-9. It is a non-narcotic, non-hallucinogenic drug. See id. HCG has never been listed on federal schedules.*
- **Trifloromethylphenypiperazine (“TFMPP”)**
  - Connecticut has regulated TFMPP, a hallucinogen, since June 18, 2003. *See Conn. Regs. § 21a-243-7(43). The substance was temporarily federally designated but the U.S. Attorney General allowed its temporary listing to expire on March 19, 2004. See 69 Fed. Reg. 12794 (Mar. 18, 2004).*

## **Previous Drugs Not Included On Federal Drug Schedules**

- **Benzylfentanyl and Thenylfentanyl**
  - Benzylfentanyl and Thenylfentanyl were included on Connecticut drug schedules as narcotics from 1987 to June 11, 2011. *See McCoy v. United States*, 707 F.3d 184, 197 (2d Cir. 2013) (“Connecticut criminalizes conduct involving two obscure opiate derivatives, thenylfentanyl and benzylfentanyl); *United States v. Madera*, 521 F.Supp.2d 149, 154-155 (D. Conn. 2007) (“Benzylfentanyl and thenylfentanyl have been included in the Connecticut schedules of controlled substances as narcotics since 1987”).
  - Benzylfentanyl and Thenylfentanyl were not included on federal drug schedules as of November 29, 1986. *See Fed. Reg. 43025 (Nov. 28, 1986).*

## **CONNECTICUT DRUG LAWS GENERALLY**

- Title 21a, Chapter 420b, Dependency-Producing Drugs of the Connecticut General Statutes Annotated contains the entire regulatory scheme for controlled substances in the state of Connecticut
- Definitions for the statutes in Title 21a, Chapter 420b can be found at § 21a-240.
- Connecticut Drug Schedules can be found at Regs. Conn. Agencies §21a-243-7 through § 21a-243-11
- Connecticut criminal jury instructions can be found at <https://www.jud.ct.gov/JI/Criminal/> --the pertinent sections related to drug convictions are from pages 628-658

## **MAXIMUM SENTENCING**

Unless the sentence is specifically listed in the statute itself, the following guidelines apply:

### **Juvenile Sentences**

- §18-65a. Confinement of young and teenage women
  - Imprisonment not to exceed 5 years for women between the ages of 16 and 21
- §18-73. Confinement of male children and youths
  - Imprisonment not to exceed 5 years for men between the ages of 16 and 21

**Note:** This chart does not analyze what effect the petty offense exception may have on a conviction that is determined to be a CIMT nor whether the offense meets any minimum sentence requirement.

# CONTROLLED SUBSTANCES CRIMES CHART

Prepared by the JLCs/AAs of the Hartford Immigration Court

## Connecticut Violations

- **§ 53a-27. Violation: Definition, designation**
  - (a) An offense, for which the only sentence authorized is a fine, is a violation unless expressly designated an infraction.
  - (b) Every violation defined in this chapter is expressly designated as such. Any offense defined in any other section which is not expressly designated a violation or infraction shall be deemed a violation if, notwithstanding any other express designation, it is within the definition set forth in subsection (a).
- **§53a-43 Fines for Violations**
  - Not to exceed \$500
  - In the case of a violation defined in any other section of the general statutes, if the amount of the fine is expressly specified in the section that defines the offense, the amount of the fine shall be fixed in accordance with such section.

## Connecticut Misdemeanors: CONN. GEN. STAT. ANN. §§ 53a-36 Imprisonment for Misdemeanor; 53a-42 Fines for Misdemeanors

- Class A—fine not to exceed \$2,000 or imprisonment not to exceed one year
- Class B—fine not to exceed \$1,000 or imprisonment not to exceed six months
- Class C—fine not to exceed \$500 or imprisonment not to exceed three months
- Class D—fine not to exceed \$250 or imprisonment not to exceed 30 days
- Unclassified—“an amount in accordance with the fine specified in the section of the general statutes that defines or provides the penalty for the crime” or “a term in accordance with the sentence specified in the section of the general statutes that defines or provides for the penalty for the crime”

## Connecticut Felonies

- **CONN. GEN. STAT. ANN. § 53a-25 Felony: Definition, classification, designation**
  - An offense where a person is sentenced to a term of imprisonment in excess of one year is a felony
  - Felonies are classified as Class A, Class B, Class C, Class D, Class E, Unclassified, and Capital Felonies
  - Any offense defined in any section of the general statutes which, by virtue of an expressly specified sentence, is within the definition set forth in subsection (a) of this section, but for which a particular classification is not expressly designated, shall be deemed: (1) A class E felony if the maximum term of imprisonment specified is in excess of one year but not more than three years; or (2) an unclassified felony if the maximum term of imprisonment is otherwise within the definition set forth in subsection (a) of this section.
- **CONN. GEN. STAT. ANN. § 53a-35 Imprisonment for Felony Committed Prior to July 1, 1981**
  - (a) For any felony committed prior to July 1, 1981, the sentence of imprisonment *shall be an indeterminate sentence*, except as provided in subsection (d). When such a sentence is imposed the court shall impose a maximum term in accordance with the provisions of subsection (b) and the minimum term shall be as provided in subsection (c) or (d).
  - (b) **The maximum term of an indeterminate sentence shall be fixed by the court and specified in the sentence as follows:**
    - (1) For a class A felony, life imprisonment;
    - (2) for a class B felony, a term not to exceed twenty years;
    - (3) for a class C felony, a term not to exceed ten years;
    - (4) for a class D felony, a term not to exceed five years;
    - (5) for an unclassified felony, a term in accordance with the sentence specified in the section of the general statutes that defines the crime; and
    - (6) for a capital felony, life imprisonment unless a sentence of death is imposed in accordance with section 53a-46a.
  - (c) Except as provided in subsection (d) the minimum term of an indeterminate sentence shall be fixed by the court and specified in the sentence as follows:
    - (1) For a class A felony, the minimum term shall not be less than ten nor more than twenty-five years;
    - (2) for a class B, C or D felony the court may fix a minimum term of not less than one year nor more than one-half of the maximum term imposed, except that (A) where the maximum is less than three years the minimum term may be more than one-half the maximum term imposed or (B) when a person is found guilty under section 53a-59(a)(1), section 53a-59a, 53a-101(a)(1) or 53a-134(a)(2), the minimum term shall be not less than five years and such sentence shall not be suspended or reduced, or when a person is found

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guilty under section 53a-60c, the minimum term shall be not less than three years and such sentence shall not be suspended or reduced, or when a person is found guilty under section 53a-60b, the minimum term shall be not less than two years and such sentence shall not be suspended or reduced;

- (3) for an unclassified felony, a term in accordance with the sentence specified in the section of the general statutes that defines the crime.
- (d) Notwithstanding the provisions of subsections (a) and (c), except as provided in subdivision (2) of said subsection (c), when a person is sentenced for a class C or D felony or for an unclassified felony, the maximum sentence for which does not exceed ten years, the court may impose a definite sentence of imprisonment and fix a term of one year or less; except when a person is found guilty under sections 53a-55a, 53a-56a, 53a-60a, 53a-70a, 53a-72b, 53a-92a, 53a-94a, 53a-102a and 53a-103a, the court shall not fix a term of less than one year.

- **CONN. GEN. STAT. ANN. § 53a-35 Imprisonment for Felony Committed on or After July 1, 1981**
  - For any felony committed on or after July 1, 1981, the sentence of imprisonment *shall be a definite sentence* and, unless the section of the general statutes that defines or provides the penalty for the crime specifically provides otherwise, the term shall be fixed by the court as follows:
    - (1) (A) For a capital felony committed prior to April 25, 2012, under the provisions of section 53a-54b in effect prior to April 25, 2012, a term of life imprisonment without the possibility of release unless a sentence of death is imposed in accordance with section 53a-46a, or (B) for the class A felony of murder with special circumstances committed on or after April 25, 2012, under the provisions of section 53a-54b in effect on or after April 25, 2012, a term of life imprisonment without the possibility of release;
    - (2) For the class A felony of murder, a term not less than twenty-five years nor more than life;
    - (3) For the class A felony of aggravated sexual assault of a minor under section 53a-70c, a term not less than twenty-five years or more than fifty years;
    - (4) For a class A felony other than an offense specified in subdivision (2) or (3) of this section, a term not less than ten years nor more than twenty-five years;
    - (5) For the class B felony of manslaughter in the first degree with a firearm under section 53a-55a, a term not less than five years nor more than forty years;
    - (6) For a class B felony other than manslaughter in the first degree with a firearm under section 53a-55a, a term not less than one year nor more than twenty years;
    - (7) For a class C felony, a term not less than one year nor more than ten years;
    - (8) For a class D felony, a term not more than five years;
    - (9) For a class E felony, a term not more than three years; and
    - (10) For an unclassified felony, a term in accordance with the sentence specified in the section of the general statutes that defines or provides the penalty for the crime.
- **CONN. GEN. STAT. ANN. § 53a-41 Fines for Felonies**
  - A fine for the conviction of a felony shall, unless the section of the general statutes that defines or provides the penalty for the crime specifically provides otherwise, be fixed by the court as follows:
    - (1) For a class A felony, an amount not to exceed twenty thousand dollars;
    - (2) for a class B felony, an amount not to exceed fifteen thousand dollars;
    - (3) for a class C felony, an amount not to exceed ten thousand dollars;
    - (4) for a class D felony, an amount not to exceed five thousand dollars;
    - (5) for a class E felony, an amount not to exceed three thousand five hundred dollars; and
    - (6) for an unclassified felony, an amount in accordance with the fine specified in the section of the general statutes that defines or provides the penalty for the crime.

## **GENERIC OFFENSES**

### **“ILICIT TRAFFICKING IN A CONTROLLED SUBSTANCE”**

- Under INA § 101(a)(43)(B), illicit trafficking in controlled substance (as described in section 102 of the Controlled Substances Act (“CSA”)), including a drug trafficking crime (as defined in 18 U.S.C. § 924(c)) is an aggravated felony. However, a single conviction for distributing a “small amount of marihuana for no remuneration” is deemed a simple possession offense subject to the provisions of 21 U.S.C. § 844, and therefore, a misdemeanor under federal law. 21 U.S.C. § 841(b)(4). *See Moncrieffe*, 133 S. Ct. 1678, 1693-94 (2013) (“If a noncitizen’s conviction for a marijuana distribution offense fails to establish that the offense involved either remuneration or more than a small amount of marijuana, the conviction is not for an aggravated felony under the INA.”); *Martinez v. Mukasey*, 551 F.3d 113, 119-22 (2d Cir. 2008) (holding New York drug offense was not

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categorically a drug trafficking crime where it could have involved a transfer of drugs for no remuneration). An offense constitutes a felony under the CSA if the maximum term of imprisonment authorized by the CSA is more than one year. *See* 18 U.S.C. § 3559(a)(5); *Moncrieffe*, 133 S. Ct. at 1693-94.

### **“CONTROLLED SUBSTANCE OFFENSE”**

- An alien is removable who, any time after admission, “has been convicted of a violation of (or a conspiracy or attempt to violate) any law or regulation of a State, the United States, or a foreign country relating to a controlled substance . . . other than a single offense involving possession for one’s own use of thirty grams or less of marijuana.” INA § 237(a)(2)(B)(i). A controlled substance is any substance that appears in Schedules I-V under 21 U.S.C. § 812. 21 U.S.C. § 802(6).

### **“CRIME INVOLVING MORAL TURPITUDE (CIMT)”**

- The Second Circuit has adopted the BIA’s definition of a CIMT, as conduct which is inherently base, vile, or depraved, and contrary to the accepted rules of morality and the duties owed between persons, or the duties owed to society in general. *See* *Mendez v. Mukasey*, 547 F.3d 345, 347 (2d Cir. 2008).

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